

# Town of Lunenburg

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Lunenburg MA 01462-0135

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**KERRY A. SPEIDEL**

TOWN MANAGER

Laura Williams

Chief Administrative Assistant

November 20, 2009

Paul J. Hibbard, Chairman  
Department of Public Utilities  
One South Station  
Boston MA 02110

Dear Mr. Hibbard:

The impact of last December's ice storm still reverberates through this region. As we near the one-year anniversary, our residents continue to experience anxiety, frustration and anger both from the two-week ordeal in which they were hapless victims of a grossly mismanaged and scandalously under prepared utility company but also from a state government and its agencies that many feel have been unable to adequately protect them and punish those whose negligence and ineptitude caused them undue hardship, loss of property and placed them in unnecessary danger.

During the height of the event and in its aftermath, local officials urged our citizens to direct their passionate reactions toward those offices and agencies whose purpose it was to protect them against the severe inadequacies Unital had exhibited. We were encouraged by our local legislation's early activism in getting MEMA and the Governor's office involved. Without their involvement and without the Governor's intercession, the restoration of power would've clearly been prolonged by days if not weeks. We were further encouraged by the Governor's request for, and the initiation of, a full DPU investigation and the Attorney General's interest in actively participating in that investigation. Hundreds of residents and ratepayers provided testimony to the DPU both in writing and in person during the regional public hearings; town officials and public safety officials provided testimony during the DPU's hearing in Boston; Lunenburg retained counsel to join as a petitioner in the case. We all constructively participated, having faith that the process provided to us would deliver the protection, relief and just compensation it seemed to promise.

It did not.

To be clear, the DPU Order, issued on November 2, 2009, did provide an absolutely scathing indictment of the numerous critical failures of Unital. It confirmed most every detail of the testimony provided by citizens, officials and expert witnesses and concurred with most every substantive finding of the Attorney General's office. In their own words, they "concluded that the company's [Unital's] response represented a clear and unambiguous failure to satisfy its obligations to provide safe and reliable services to its customers – an obligation that is a condition of every public utility company granted a franchise in Massachusetts." The DPU further stated that "monetary penalties would be warranted" but, astoundingly, could find no authority

that allowed it to impose such penalties, even though it had recently done so in an \$8M fine against National Grid for "service quality standards" issues and "its failure to timely restore service". The best the DPU could muster was to order a comprehensive, independent management audit of Unitil, to be completed at Unitil's expense.

Not surprisingly, their incredibly restrictive interpretation of their own authority in this case has confounded most everyone closely involved. It has inflamed those citizens and ratepayers who feel victimized and powerless once again and it has confirmed the darkest thoughts of those cynics who cautioned that there would never be justice served in this case. We feel that, as the only protection provided to ratepayers of the Commonwealth, the DPU's decision was an abrogation and dereliction of their duties and we urge that every avenue available to revisit or appeal this decision be considered. To us, the fact that a company can be found in violation of so many critical areas of service, including endangering public safety and jeopardizing lives of Life Support customers, yet not be monetarily penalized still defies explanation and logic and contradicts the very purpose of the agency.

Fortunately, the regional legislators were already proposing new laws that would clarify and strengthen the DPU authority over utility companies that run afoul of their rules and regulations. This legislation, which was unanimously passed in both chambers of the Legislature and signed into law by the Governor last Thursday in Lunenburg, closes the gaps in the previous legislation, adds new requirements regarding emergency management plans, raises fine ceilings and includes the threat of receivership in the most extreme cases. The enactment of this legislation lessened (but certainly did not eliminate) the stinging disappointment of the DPU order. We acknowledge that this new legislation is a big step in the right direction and commend all those involved in getting it passed. It does provide some solace knowing that what happened last December will never go unpunished again even while we still hold that it shouldn't have gone unpunished this time.

But there is still more that can be done to protect the ratepayers and consumers. Towns and cities serviced by investor-owned utility companies still have no alternatives when purchasing their electricity. In the current state-sponsored monopoly, you are stuck with the company that services your area - not because that company has earned it with exceptional service and competitive rates, but because it bought the territory from the previous "franchise-holder". We believe that towns, cities and their residents should be afforded the option to establish and run their own municipal power company and buy the assets of the existing utility for a negotiated price to be determined by the DPU or an independent appraiser. We acknowledge the intricacies of constructing such legislation and encourage the Legislature to fully debate them and include any and all safeguards they deem necessary in its implementation. But the time to allow for such an option has certainly come. In times when electrical services are an absolute necessity, ratepayers should not be held hostage by companies who do not address their needs in terms of service or rates; nor by companies who are more concerned with profits and the bottom-line than in maintaining a proper and modern infrastructure and protecting it.

We hereby urge you to support and promote the passage of bills H3087 and S1527, the so-called "muni" bills, and allow our towns and cities to determine their own destinies with concern to the purchase and distribution of electricity.

Respectfully,



Tom Alonzo, Chairman  
Board of Selectman

cc:

**Department of Public Utilities**

Paul J. Hibbard, Chairman, Department of Public Utilities

Tim Woolf, Commissioner, Department of Public Utilities

Jolette A. Westbrook, Commissioner, Department of Public Utilities

Laura Koepnick, Hearing Officer, Department of Public Utilities

Joan Foster Evans, Senior Counsel, Department of Public Utilities

**Attorney General**

Martha Coakley, Attorney General

**Governor's Office**

Governor Deval Patrick

Ian A. Bowles, Secretary of Energy and Environmental Affairs

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